

**OPINION
47-40**

April 18, 1947 (OPINION)

CITIES

RE: Salary of City Auditor - No Change During Term

The Attorney General is in receipt of your letter of April 9, 1947, in which you say that you desire the opinion of this office as to whether the salary of the City Auditor of Lehr may be increased from \$65.00 per annum to \$125.00 per annum.

I am not aware of any state law which prescribes the salaries of city auditors. Salaries vary, depending upon the size of cities. In small towns the salaries of city auditors are usually nominal, as appears to be the case Lehr. In cities such as Bismarck, Grand Forks, Minot and Fargo the salary of the city auditor is upwards of \$4,000 per annum.

Unless otherwise prescribed by law, the salary of a municipal officer is fixed by ordinance or resolution of the governing body. Section 40-1304 of the 1943 Revised Code provides:

"Except where otherwise provided in this code, any officer or employee of a municipality shall receive the salary, fees, or other compensation fixed by ordinance or resolution, and after having been once fixed, the same shall not be diminished to take effect during the term for which the officer was elected or appointed."

It is, therefore, my opinion that the governing board of Lehr may by ordinance increase the salary of the City Auditor. An existing ordinance undoubtedly fixes the salary of the city auditor of Lehr at \$65.00 per year. Such ordinance may be amended to increase the salary of that officer.

NELS G. JOHNSON

Attorney General